

Surface Transportation Board, DOT

§1103.27

client, and this duty extends to the practitioner's employees as well. Neither practitioner nor his employees shall accept employment which involves the disclosure or use of a client's confidences without knowledge and consent of the client even though there are other available sources of information. A practitioner shall not continue employment when he discovers that this obligation presents a conflict in his duty between the former and the new client.

(b) If a practitioner is falsely accused by his client, he is not precluded from disclosing the truth in respect to the false accusation. The announced intention of a client to commit a crime is not included in the confidence which a practitioner is bound to respect. The practitioner may properly make such disclosures to prevent the act or protect those against whom that is threatened.

THE PRACTITIONER'S DUTIES AND RESPONSIBILITIES REGARDING WITNESSES, OTHER LITIGANTS AND THE PUBLIC

§1103.24 Use of adverse witnesses.

A practitioner shall not be deterred from seeking information from a witness connected with or reputed to be biased in favor of an adverse party, if the ascertainment of the truth requires that such a person be called as a witness in a proceeding.

§1103.25 Treatment of witnesses, litigants and other counsel.

(a) A practitioner shall always treat adverse witnesses and other litigants with fairness and due consideration. He should never minister to the prejudice of a client in a trial or conduct in a cause. The client has no right to demand that the practitioner representing him abuse the opposing party or indulge in offensive personal attacks.

(b) A practitioner shall not attempt to obstruct Board investigations or corruptly to influence witnesses and potential witnesses during an investigation.

(c) In conducting a case it is improper for a practitioner to allude to the personal history or the personal pe-

culiarities or idiosyncracies of practitioners on the other side, or otherwise engage in personal abuse of other practitioners.

§1103.26 Discussion of pending litigation in the public press.

Attempts to influence the action and attitude of the members and administrative law judges of the Board through propaganda or through colored or distorted articles in the public press, should be avoided. However, it is not against the public interest or unfair to the Board if the facts of pending litigation are made known to the public through the press in a fair and unbiased manner and in dispassionate terms. When the circumstances of a particular case appear to justify a statement to the public through the press, it is unethical to make it anonymously.

§1103.27 Candor and fairness in dealing with other litigants.

(a) The conduct of practitioners before the Board and with other practitioners should be characterized by candor and fairness. The practitioner shall observe scrupulously the principles of fair dealing and just consideration for the rights of others.

(b) It is not candid or fair for a practitioner knowingly to misstate or misquote the contents of a paper, the testimony of a witness, the language or the argument of an opposing practitioner, or the language or effect of a decision or a text book; or, with knowledge of its invalidity to cite as authority a decision which has been overruled or otherwise impaired as a precedent or a statute which has been repealed; or in argument to assert as a fact that which has not been proved, or to mislead his opponent by concealing or withholding positions in his opening argument upon which his side then intends to rely.

(c) It is dishonorable to deal other than candidly with the facts in taking the statements of witnesses, in drawing affidavits and other documents, and in the presentation of cases.

(d) A practitioner shall not offer evidence which he knows the Board should reject, in order to get the same before